

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's own motion to consider
modifications to the Universal Lifeline Telephone
Service Program and General Order 153.

Rulemaking 98-09-005
(Filed September 3, 1998)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING FONES4ALL TO SUBMIT INFORMATION
RELEVANT TO ITS PETITION TO MODIFY DECISION (D.) 00-10-028**

On March 14, 2001, FONES4ALL filed a petition to modify D.00-10-028. In its petition, FONES4ALL asks the Commission to substantially increase the amount paid to FONES4ALL to provide Universal Lifeline Telephone Service (ULTS). FONES4ALL currently provides ULTS in the service territories of Pacific Bell (Pacific) and Verizon California Incorporated (Verizon). Under D.00-10-028, FONES4ALL is paid the same amount to provide ULTS as Pacific and Verizon.

In deciding whether to grant the petition, the threshold issue is whether, as a policy matter, FONES4ALL should be paid more to provide ULTS than Pacific and Verizon. Assuming the Commission decides that FONES4ALL should be paid more, the issue then becomes how much more. So that the Commission has an adequate record to decide the previously described issues, this ruling requires FONES4ALL to respond to the following questions:

1. On page 6 of its petition, FONES4ALL proposes the following cost-recovery schedule:

Total Number of ULTS Customers Served	Cost Recovery Per ULTS Customer (i.e., Amount Paid by ULTS Fund to Carrier)
0 – 5,000 customers	\$50 per month, less monthly rate paid by customer
5,001 – 10,000 customers	\$40 per month, less monthly rate paid by customer
10,001 – 15,000 customers	\$30 per month, less monthly rate paid by customer
15,001 – 20,000 customers	\$20 per month, less monthly rate paid by customer
20,001 or more customers	Same as the Incumbent Local Exchange Carrier (ILEC)*
* Note: Additional recovery for taxes, incremental costs, and other items available only for carriers serving 20,001 or more ULTS customers.	

Please provide the following information regarding the proposed cost-recovery schedule:

- a. Does the cost recovery for each tier apply to all ULTS customers served by the carrier, or only those ULTS customers included within the tier. For example, if a carrier serves 10,000 ULTS customers, would the carrier receive \$40 for every customer served, or \$50 for each of the first 5,000 customers, and \$40 the next 5,000?
- b. Does FONES4ALL's proposal apply to ILECs serving no more than 20,000 ULTS customers?
- c. Please describe in detail why the proposed cost-recovery schedule does not result in the over recovery of costs.
- d. What criteria should the Commission use to determine if the proposed cost-recovery schedule is just and reasonable?
- e. Would carriers with high costs have an opportunity to recover more from the ULTS Fund than proposed by FONES4ALL? If so, what procedure should be used by such carriers?
- f. Will carriers have an incentive under FONES4ALL's proposal to form multiple companies, each with no more than 5,000 ULTS customers, in order to obtain the maximum possible reimbursement from the ULTS Fund? If not, why not?
- g. Any information and documents that FONES4ALL relied upon to prepare its proposal.

2. How many customers does FONES4ALL currently have? Please break down your response by the following categories:
 - a. ULTS customers.
 - b. Non-ULTS residential customers.
 - c. Business customers.
3. One possible reason for paying FONES4ALL more to provide ULTS than Pacific or Verizon is that FONES4ALL provides superior service. Does FONES4ALL provide superior service to ULTS customers compared to Pacific and/or Verizon? If so, please describe in detail why FONES4ALL's service is superior.
4. One possible reason why FONES4ALL should not be paid more than Pacific or Verizon is that Pacific and Verizon already provide adequate service to ULTS customers, and that it is unnecessary for the ratepayers who fund the ULTS program to pay more for service provided by FONES4ALL. Do Pacific and Verizon provide adequate service to ULTS customers? If not, please describe in detail why their service is inadequate. Assuming their service is adequate, why should the ratepayers who fund the ULTS program pay more for service provided by FONES4ALL?
5. One possible reason why FONES4ALL should not be paid more to provide ULTS is that other non-ILEC carriers are able to provide adequate service to ULTS customers with the current payments. Appendix A of this ruling contains a "payment letter" obtained from the Commission's website. This document shows that there are currently five non-ILEC recipients of ULTS payments: AT&T Communications, Genesis Communications International, Inc., Talk.com, Telscape Communications, and FONES4ALL.
 - a. Is the service provided by FONES4ALL to ULTS customers superior to that provided by AT&T, Genesis, Talk.com, and/or Telscape? If so, please describe in detail why FONES4ALL's service is superior.
 - b. Do these other carriers provide adequate service to ULTS customers? If not, please identify which carriers provide inadequate service, and please describe in detail why their service is inadequate.
 - c. Assuming that the other non-ILEC carriers provide adequate service to ULTS customers, why should the ratepayers who fund the ULTS program pay more for service provided by FONES4ALL?
 - d. Assuming FONES4ALL's petition is granted and the other non-ILEC carriers receive higher payments from the ULTS Fund, should the other

non-ILEC carriers be required to provide a higher level of service in exchange for the higher payments? If so, please describe the higher level of service. If not, why not?

6. Does FONES4ALL compete with other carriers to provide ULTS, such as AT&T, Genesis, Talk.com, Telscape, Pacific, and Verizon? If not, why not?
7. FONES4ALL asserts on page 5 of its petition that “low-income subscribers are ignored or relegated to receiving second-class service.” Please provide the basis for FONES4ALL’s assertion. If not already answered in response to the previous questions, please state whether FONES4ALL believes the following carriers ignore low-income customers and/or provide such customers with second-class service: Pacific, Verizon, AT&T, Genesis, Talk.com, and Telscape. If so, what is the basis for this belief?
8. FONES4ALL states on page 6 of its petition that payments to carriers with no more than 20,000 ULTS customers should be increased to “encourage [such carriers] to compete for ULTS subscribers through advertising and outreach programs.” How does this comport with the Commission’s policy that carriers should not be reimbursed by the ULTS Fund for marketing expenses? (General Order (GO) 153, Rule 8.4.1; D.00-10-028, 2000 Cal. PUC LEXIS 838, *39 - *40; D.98-10-050, 1998 Cal. PUC LEXIS 817, *2; and D.96-10-066, 68 CPUC 2d 254, 639-41, 652, and 660.)
9. FONES4ALL states on page 7 of its petition that payments to carriers with no more than 20,000 ULTS customers should be increased in order to reach “a significant un-served community of low-income subscribers for whom previous outreach attempts and universal service policies have failed.” In order to maximize the number of eligible customers who receive ULTS, would it be a more effective use of ULTS resources to increase the budget for the ULTS Marketing Board rather than paying more to carriers to provide ULTS? If not, please provide a detailed explanation as to why.
10. With certain exceptions that do not apply to FONES4ALL, any carrier that offers ULTS must also offer measured-rate service (MRS) to its ULTS customers. (GO 153, Appendix A, Item 10.) Does FONES4ALL currently have any ULTS customers who subscribe to MRS? If so, how many? If not, why not?
11. Appendix B of this ruling contains a copy of every page on FONES4ALL’s website that is written in English. Please indicate where in these pages FONES4ALL notifies potential ULTS customers that they may subscribe to

MRS. Please also indicate where in these pages FONES4ALL provides potential ULTS customers with an opportunity to subscribe to MRS.

12. Any carrier that offers ULTS must also offer two ULTS lines to disabled customers that meet prescribed eligibility requirements. (GO 153, Rule 5.1.5 and Appendix A, Item 22.) Does FONES4ALL currently have any ULTS subscribers who subscribe to two ULTS lines? If so, how many?
13. Appendix B of this ruling contains a copy of every page on FONES4ALL's website that is written in English. Please indicate where in these pages FONES4ALL notifies potential ULTS customers that they may subscribe to two ULTS lines. Please also indicate where in these pages FONES4ALL provides potential ULTS customers who are disabled with an opportunity to subscribe to two ULTS lines.
14. Any carrier that offers ULTS must notify potential ULTS customers of ULTS eligibility requirements. (GO 153, Rule 4.1.1.) One eligibility requirement is that any customer who is claimed as a dependant on another person's income tax return cannot subscribe to ULTS. (GO 153, Rule 5.1.4.) Appendix B of this ruling contains a copy of every page on FONES4ALL's website that is written in English. Please indicate where in these pages FONES4ALL notifies potential ULTS customers about the previously identified eligibility requirement. Has FONES4ALL notified all of its ULTS subscribers of the previously identified eligibility requirement? If so, how was the notification accomplished?
15. How many of FONES4ALL's existing ULTS customers were obtained through FONES4ALL's website?
16. FONES4ALL is required to include in its tariffs the ULTS customer self-certification form and re-certification form that have been reviewed and approved by the Commission's Public Advisor (PA). (GO 153, Rules 4.4.2 and 4.5.3.) Were FONES4ALL's certification and re-certification forms reviewed and approved by the PA?
17. Appendix C of this ruling contains a copy of FONES4ALL's tariff currently on file at the Commission. Please identify where the certification and re-certification forms are located in the appended tariffs. If one or both of these forms are not in the appended tariffs, please provide a complete copy of the advice letter or other formal filing that contains the form(s).
18. FONES4ALL asserts on pages 3 and 4 of its petition that the current payments provided by the ULTS Fund are "wholly inadequate even in the best of circumstances and [do] not even come close to meeting the costs

that FONES4ALL actually incurs in providing quality service to ULTS subscribers.” Please provide detailed financial information regarding “the costs that FONES4ALL actually incurs in providing quality service to ULTS subscribers.” Such information would ideally consist of audited financial statements.

19. FONES4ALL argues on pages 8 and 9 of its petition that it is a fundamental right of carriers to be afforded a reasonable opportunity to earn a fair return on investment. Does this mean that any carrier, no matter how high its costs, should be allowed to recover its costs from the ULTS Fund? If not, what is the maximum amount that carriers should be allowed to recover from the ULTS Fund? Do the ratepayers who fund the ULTS program have an obligation to pay FONES4ALL to provide ULTS if another carrier can provide adequate service at less cost? If so, why?
20. Please provide any other information and documents that FONES4ALL believes would assist the Commission in its deliberations on FONES4ALL’s petition.

FONES4ALL shall file and serve a supplement to its petition that contains responses to the above questions. The supplement is due no later than November 16, 2001, and shall include a verification that complies with Rule 2.4. Parties may file and serve responses no later than November 30, 2001. Any party that believes an evidentiary hearing is necessary to resolve FONES4ALL’s petition must file and serve a motion requesting such a hearing no later than December 7, 2001.

IT IS RULED that FONES4ALL shall file and serve by November 16, 2001, a supplement to its petition that responds to the questions contained in the body of this ruling. The supplement must include a verification that complies with Rule 2.4 of the Commission's Rules. Parties may file and serve responses no later than November 30, 2001. Any party that believes an evidentiary hearing is necessary to resolve FONES4ALL's petition must file and serve a motion requesting such a hearing no later than December 7, 2001.

Dated October 30, 2001, at San Francisco, California.

/s/ TIMOTHY KENNEY

Timothy Kenney
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring FONES4ALL to Submit Information Relevant to Its Petition to Modify Decision (D.) 00-10-028 on all parties of record in this proceeding or their attorneys of record.

Dated October 30, 2001, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

Appendix A
Payment Letter

(NOTE: See Formal Files for Appendices A, B, and C.)

Appendix B

Pages from FONES4ALL's Website

Appendix C

FONES4ALL's Tariff